THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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WRIT PETITION Nos.5238 and 5284 of 1995

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Dated :19-10-2005

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W.P.No.5238 of 1995

Between:

P.S.Krishna Prathap and others.

.. **PETITIONERS**

AND

The Vice Chancellor, University of Health Sciences and another.

.. RESPONDENTS

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W.P.No.5284 of 1995

Between:

V.N.S.Lakshmi and another.

.. **PETITIONERS**

AND

The Registrar, University of Health Sciences and another.

.. RESPONDENTS

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COMMON ORDER:

Four petitioners in W.P.No.5238 of 1995 and two petitioners in W.P.No.5284 of 1995 have challenged the proceedings of the N.T.R.University of Health Sciences, Vijayawada, dated 06-03-1995 in seeking to cancel the service increments, directing re-fixation of the pay of the petitioner and for recovery of the excess amounts paid, towards their increments, in easy monthly installments.

Facts, to the extent necessary for this writ petition, are that the petitioners were initially appointed in the Siddartha Medical College by the private management. While they were initially appointed on consolidated pay, they were subsequently placed in time scales in accordance with the revised 1978 pay scales. The Government of Andhra Pradesh directed the respondent University to take over the

Siddartha Medical college, vide proceedings dated 27-11-1986, and consequently the respondent University took over the college with effect from 21-12-1986. The Executive Council of the respondent University passed a resolution regarding taking over of the college accepting the proposals of the Management of Siddartha Academy. After the Siddartha Medical College was taken over, the respondent University issued proceedings dated 07-08-1989 considering several aspects and Government orders and absorbed service of the staff of the Siddartha Medical College provisionally into service of University of Health Sciences.

The Registrar, University of Health Sciences, Vijayawada, issued notice dated 07-05-1994 calling upon the petitioner to show cause as to why the excess amount paid to the petitioners irregularly could not be recovered from their pay and why their increments should not be re-fixed in terms of Audit objections. This notice is said to have been issued on the ground that the service increments granted to the petitioners by the private management of Siddhartha Medical College, which was later continued by the N.T.R. University of Health Sciences, was objected to by the Local Fund Audit as an irregular payment. The petitioners submitted their reply to the show cause notice, on consideration of which the respondents decided that the petitioners herein were not entitled to any service increments, rejected their objections and in accordance with the audit report of the local fund audit, directed that their pay be re-fixed and the excess amount paid to them towards service increments sanctioned by the private management be recovered from their pay in easy monthly installments.

Questioning the said proceedings dated 06-03-1995, both the writ petitions are filed. The impugned order, directing recovery of the amounts paid earlier towards service increments, is based on the audit report of the Local Fund Audit.

Sri A.Bhaskarachary, learned counsel for the petitioner, would submit that, during the pendency of the writ petition, the University of Health Sciences had submitted their objections to the report of the Local Fund Audit and taking into consideration the objections raised by the University of Health Sciences, the Local Fund Audit had dropped its earlier objections relating to payments of service increments. Learned counsel would submit that since the very basis of the impugned proceedings dated 06-03-1995 is the objection taken, for payment of service increments, by the Local Fund Audit, which objection has subsequently been dropped by the Local Fund Audit, the impugned order is liable to be quashed and the petitioners are entitled to be continued to be paid service increments in accordance with what was fixed by the private management and which was later continued by the N.T.R. University of Health Sciences.

Sri D.V.Nagarjuna Babu, learned Standing Counsel for the University of Health Sciences, would however refer to the counter affidavit filed by the Registrar of University of Health Sciences, wherein while admitting that the District Audit Officer, Machilipatnam, vide letter dated 23-01-2002 had communicated the list of settlement of audit objections after verification of the records and that the said list included the audit objections for the years 1986-87 to 1994-95 and 1996-97, it is stated that as per para No.82 of the year 1988-89 the objections relating to fixation of pay of the petitioners was dropped. Though the audit objection in para No.82 of the year 1988-89 was dropped, the Government of Andhra Pradesh is said to have taken fresh objections for the year 1999-2000. Learned Standing Counsel would submit that while the objection for the year 1988-89, which formed the basis for issuing the impugned proceedings, was dropped by the local fund audit, the fact that the Government had taken similar objections for the year 1999-2000 would disentitle the petitioners from being paid service increments.

The contentions of both Sri A.Bhaskarachari and Sri M.Subba Reddy, learned counsel for the petitioners and Sri D.V.Nagarjuna Babu, learned Standing Counsel for the University of Health Sciences, are based on matters which have arisen subsequent to filing of the writ petition. Whether the audit objection for the year 1988-89 has been dropped and whether similar objections taken by the Government for the year 1999-2000 would disentitle the petitioners from being paid service increments etc., are all matters for the N.T.R.University of Health Sciences to decide.

I, therefore, consider it appropriate to direct the respondents to examine the matter, in the light of the subsequent events, and take a fresh decision, as to whether the petitioners should be continued to be paid service increments or not, within a period of three months from the date of receipt of a copy of this order. In view of the fact that this court directed stay of recovery of service increments, paid earlier, during the pendency of the writ petition, status quo obtaining as on today shall be maintained till a decision is taken by the respondent University and is communicated to the petitioners herein.

Both the writ petitions are accordingly disposed of. No order as to costs.

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RAMESH RANGANATHAN, J

Dated 19-10-2005

Prv